

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

UNITED STATES OF AMERICA

v.

Case No. 23-cr-105-jdp

SETH W. FAGAN,

Defendant.

---

GOVERNMENT'S SENTENCING MEMORANDUM

---

Seth W. Fagan pleaded guilty to one count of receiving child pornography, pursuant to a plea agreement binding the Court to a sentence of 13 to 18 years in prison. (R. 32 ¶¶ 7-8.) The United States recommends the Court to sentence Fagan at the top of this range. Fagan sought out minors in the community by adding them on the Snapchat and then deceived them by pretending to be another teenager. Using these false personas, he solicited sexually explicit images from the minors.

In the more egregious instances, Fagan threatened to disclose the minor's images unless they provided more sexually explicit images to him. For one victim, Fagan made her videochat with him while creating the sexually explicit material. Fagan assaulted this victim by directing her to insert objects into her vagina and mouth on camera. In other instances, he compensated minors for their images through cash exchange apps or through tangible goods.

Fagan's actions were ongoing, persistent, calculating, threatening, and cruel. A

sentence of 18 years is necessary to reflect the seriousness of the crime and to protect the public.

### **1. Nature and Circumstances of the Offense**

Investigations into Fagan began in March 2023, when a 16-year-old high school student (KV3), reported to her school resource officer that a Snapchat user had been posing as a teenage male and was extorting nude images from her. (R. 32 ¶ 10.)

The investigation ultimately revealed that Fagan had created and was manipulating multiple Snapchat accounts with the persona and image of a teenage boy. (R. 32 ¶¶ 10-12.) Through these accounts, Fagan found and messaged minor females and “exchanged”<sup>1</sup> nude photos. Once Fagan obtained the minor’s nude images, he switched from friendly peer to mastermind manipulator and extorted the minors into sending him additional images by threatening to send ones he already had to their families and friends if they refused his demands.

#### **a. KV1**

Fagan first contacted KV1 over Snapchat when she was 12 years old. (R. 32 ¶ 13.) Fagan told KV1 that he was a 16 year old named “Thomas.” (R. 32 ¶ 20.) KV1 sent Fagan<sup>2</sup> nude photographs of herself. (Id.) Fagan consistently sent KV1 photographs of penises. (Id.) Fagan then began threatening to send the nude photographs to KV1’s friends and family if she did not send him additional nude images of herself. (Id.) Fagan was unrelenting in his harassment of KV1, including creating accounts to mock KV1,

---

<sup>1</sup> Fagan would send a photo of an erect penis that was determined to be an image from the internet.

<sup>2</sup> KV1 still believed that she was communicating with 16-year-old “Thomas.”

such as an account with the username “KV1’sboobs.” (Id.)

Fagan’s devices had numerous images and videos of KV1 dating back to October 2022. (R. 32 ¶¶ 13-19.) Fagan used these videos as opportunities to terrorize KV1 for his own gratification. Fagan recorded these videos on his devices, creating child pornography he could keep for future uses. (Id.)

One series of videos Fagan had saved of KV1 are particularly degrading. These were created after Fagan had begun extorting KV1, demanding she send him videos and images at his demand, and threatening to send the nude photos he possessed of her to her family and friends if she refused. In these videos Fagan and KV1 had a live video chat. Fagan used a cartoon character as his image, while KV1 was visible on her camera.

In one video, Fagan directed KV1 to insert a hairbrush into her vagina and to touch herself on camera for him in multiple positions and ways. (R. 32 ¶ 15.) While he commanded her to complete these different sexual acts, he also viciously taunted her by asking if she was “scared and sad,” and by telling her to “cry you little bitch” and “apologize for being a dirty slut.” (Id.)

In another video, Fagan told KV1 to stick her finger into her anus, and she refused. (R. 32 ¶ 16.) Fagan then became aggressive and pressured KV1 to comply. (Id.) In another video, Fagan recorded KV1 inserting a hairbrush into her vagina while lying on her back. (R. 32 ¶ 17.) Fagan then directed KV1 to stick the hairbrush into her mouth and “gag on it.” (Id.) KV1 complied, and Fagan told her to say, “I’m a fucking slut.” (Id.)

In another video of KV1, Fagan told KV1 to “shove” the hairbrush into her

mouth and “gag on it quickly.” (R. 32 ¶ 18.) Fagan then directed her to put the hairbrush into her vagina and back into her mouth. (Id.)

**b. KV2**

Fagan began communicating with KV2 through Snapchat when she was 14 years old. (R. 32 ¶ 21.) Fagan identified himself as a 17-year-old male from the La Crosse, Wisconsin area. (R. 32 ¶ 23.) KV2 sent nude photographs to Fagan after two months of messaging each other, and after he had sent her a photo of an erect penis. (Id.) When KV2 stopped sending nude photographs, Fagan threatened to send her photographs to her friends and family if she did not continue to send him nude images. (Id.) KV2 did not believe Fagan and ignored him. (Id.)

Fagan then offered to compensate KV2 for nude images. (Id.) Fagan sent KV2 payments through Cash App and bought her nicotine in exchange for nude photographs of herself.

Further aggravating the relationship between Fagan and KV2, Fagan would plan to meet up with KV2 in person but would never show up.<sup>3</sup> (R. 32 ¶ 22.) KV2 eventually became suspicious that Fagan was not who he purported to be and threatened to call the police. (Id.) Fagan responded by telling KV2 the police would not believe her and would not condone her exchanging nude photographs for drugs. (Id.)

**c. KV3**

KV3 reported to her school resource officer that she had been communicating

---

<sup>3</sup> KV2 would have expected to see a 17-year-old teenager, not a 32-year-old man, so whether Fagan was in the scheduled places without KV2’s knowledge is unknown.

with a Snapchat account named “Thomas.bredford” (Fagan). (R. 32. ¶ 10.) The user had posed as a teenage male when he added KV3 on the app. (Id.) Fagan had sent her a photograph of an erect adult penis. (Id.) KV3 responded by sending a nude photograph of herself. (Id.) Fagan became pushy, and KV3 stopped responding to him. (Id.) Another snapchat account, “tyguy2020” (Fagan) had also been messaging with KV3, and she had sent a nude photo to that account. Fagan took a screenshot of her nude photo and threatened to send it to her family and friends unless she sent him more nude photos. (Id.) Because of this threat, KV3 complied and sent the account 10 additional photographs of her nude body.

**d. Additional known and unknown minors contacted by Fagan.**

A review of Fagan’s snapchat records revealed many more victims, some who were identified but many who still have not been identified.

Fagan added KV4, a 15-year-old high school classmate of KV2, on Snapchat under another Snapchat account that pretended to be an 18-year-old male. (R. 32 ¶ 26.) Fagan paid KV4 through Cash App for two nude photographs. (Id.) Fagan then threatened to send KV4’s photographs to her friends and family if she did not continue to send him nude photographs. (Id.) KV4’s younger sister, KV5, also believed she sent nude photographs to one of Fagan’s Snapchat accounts. (R. 32 ¶ 25.) KV5 said Fagan identified himself to her as “Jack.” (Id.)

Fagan paid KV6 through Cash App for photographs of herself. (R. 32 ¶ 28.) KV6 was friends with one of Fagan’s snapchat accounts and recalled speaking to a 17-year-old male who went by the name “Cody.” (Id.) KP1 also met a “Cody” or “Matthew” on

the internet, who attempted to convince her to send him nude photographs of herself and compensated her through the Venmo App. (R. 32 ¶ 36.)

KV7 sent nude photographs of herself to the same Snapchat account Fagan used to contact KV3. (R. 32 ¶ 29.) Fagan possessed a video of KV8 inserting an object into her vagina and mouth, along with images of KV8's face and breasts. (R. 32 ¶30.) Fagan also had sexually explicit images of KV9 – an 11-year-old minor living in West Virginia – on his devices. (R. 32 ¶ 32.)

## **2. The History and Characteristics of the Defendant**

### **a. Fagan continuously exploits and violates young women who interest him.**

This is not the first time Fagan has manipulated and exploited young women for his own interests. Fagan has relentlessly manipulated young women his entire adult life and has become more dangerous and more skilled at deception as he grows older. Combining Fagan's pattern of behavior with his attraction to children makes Fagan a serious threat to society. Accordingly, there is a great need for substantial imprisonment in order to protect the public.

The first known victim of Fagan's extortion is KM. KM told investigators that her relationship with Fagan began in 2010, after he stole nude photos of her from her phone and blackmailed her. (R. 32 ¶ 78.) Fagan threatened to send the nude photos of KM to her family, friends, and current boyfriend if she did not send him more nude photos. Fagan then threatened to leak the photos of KM if she did not begin dating him on Facebook. KM said this finally ended in 2011 when she went to Fagan's home to tell him

to stop. (Id.) During that altercation, Fagan would not allow KM to leave until she called the police. (Id.) Fagan was convicted of disorderly conduct, and the case was eventually expunged. (Id.)

Not even a restraining order stopped Fagan from harassing KM. Despite the restraining order, Fagan continued to harass KM by calling her at work. (R. 32 ¶¶ 77, 84.) The investigation in this case revealed that Fagan had sent KM messages in 2021 using one of the false accounts he used to communicate with the minor victims of this case. (R. 32 ¶ 77.)

Privacy and consent mean nothing to Fagan. Fagan's ex-wife recounted times he would use binoculars to look at college-aged females and even sometimes record the young females without their knowledge or consent. (R. 32 ¶ 76.) During the time Fagan was extorting KM, she recalled seeing a drive on Fagan's computer that contained many nude photos of girls from their high school. (R. 32 ¶ 78.)

An anonymous email from a user identified as "Jane Doe" reached out to the La Crosse County District Attorney's Office when Fagan was first arrested and charged to warn him about his behavior. (R. 32 ¶ 25.) This email described Fagan as "a master of manipulation," with a history of blackmail and deception. (Id.) The email described Fagan's history as a "peeping Tom" who would engineer occasions where he could record people having sex in his home and then use that information to extort, control, bully, and harass them. (Id.)

### **3. Need for the Sentence Imposed**

#### **a. Protection of the Public**

The specific victims in this case deserve protection from Fagan. KV1 and her family did not begin to feel safety and relief from Fagan's threats and presence in the community until his incarceration. (R. 32. ¶ 41.) The public at large, particularly young girls, also deserve protective from Fagan. Through the crimes documented in this case, Fagan has shown himself to be deceitful and menacing. While his criminal impact is felt most strongly in his local communities, minors from across the County were identified in his devices. This Court must protect the public by ensuring that Fagan does not have another opportunity to victimize other children or adults.

As he has aged, Fagan has continued his pattern of manipulation and harassment, but he now seeks out and terrorizes the most defenseless individuals: children. Teenagers and children, like the ones Fagan preyed upon, are inherently vulnerable due to their age, mental developments and capacities, and overall dependence on adults. We know Fagan likes this susceptible group, as he has admitted his sexual interest in teenagers.

Fagan's control of the minors he engaged with is particularly disturbing for the specific victims and for members of the community. In his videos with KV1, Fagan's use of a cartoon character as his image instead of revealing himself gave him an advantage in this predatory situation. Not only was he the adult manipulating a child, but he also knew what KV1 looked like, he knew her age and her vulnerabilities, and yet she knew nothing true about him. Fagan's scheduled meetings with KV2 allowed him to know where she was going to be at a specific time. While KV2 said Fagan never showed up to the meetings, KV2 was looking for the teenage male Fagan pretended to be, not the 32-



year-old white male he actually was.

The bottom line is Fagan cannot be permitted to continue to prey on young women. A significant sentence is needed to protect the community from Fagan's crimes.

**b. When considering similarly charged defendants, Fagan's conduct stands out because he sexually assaulted KV1 in their video chats.**

Fagan escalated from threats, harassment, and extortion to sexual abuse when he forced KV1 to commit acts of sexual assault in their video chats. Fagan directed KV1 to insert a hairbrush into her vagina and mouth several times. Under Wisconsin law, this is sexual assault.<sup>4</sup> On a spectrum of offenders who receive and create child pornography, Fagan falls in the more egregious category due to this conduct.

**c. Deterrence**

The sentence should deter Fagan from engaging in further criminal behavior and should likewise deter others from attempting to commit such crimes against children. 18 years' imprisonment can accomplish this goal. Based on the nature of Fagan's past conduct and his admitted interest in children (R. 32 ¶ 12), there is a compelling need to deter future similar conduct by him and other like-minded individuals. There is no reason to believe that anything, but a lengthy term of imprisonment will deter him from committing similar offenses in the future.

---

<sup>4</sup> See Wisconsin State Statutes § 948.02(1)(e) "First degree sexual assault of a child. Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 13 years is guilty of a Class B felony." The Wisconsin Criminal Jury Instructions define "Sexual intercourse" as "any intrusion, however slight, by any part of a person's body or of any object, into the genital or anal opening of another... The act of sexual intercourse must be either by the defendant or upon the defendant's instruction." (emphasis added.) Wis. JI-Criminal 2101B (2010.)

#### **4. Conclusion**

To accomplish the goals of sentencing — particularly deterrence and protection of the public — Fagan must be sentenced to a truly significant term of imprisonment. 18 years is the appropriate amount of imprisonment.

Dated this 12th day of April 2024.

Respectfully submitted,

TIMOTHY M. O'SHEA  
United States Attorney

By: /s/  
Kathryn Ginsberg  
Assistant United States Attorney